

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

J.A.G. FREIGHT SYSTEMS, INC.

and

Case 2--CA--18991

LOCAL 20408, UNITED WAREHOUSE, INDUSTRIAL
AND AFFILIATE TRADES EMPLOYEES UNION

DECISION AND ORDER

Upon a charge filed by the Union 16 July 1982 and an amended charge filed 24 August 1982, the General Counsel of the National Labor Relations Board issued a complaint 31 August 1982 against the Company, the Respondent, alleging that it has violated Section 8(a)(5) and (1) of the National Labor Relations Act.¹ Although properly served copies of the charge and complaint, the Company has failed to file an answer.

On 26 April 1983 the General Counsel filed a Motion for Summary Judgment. On 3 May 1983 the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Company filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

¹ The complaint was corrected in an erratum issued and served on the parties 15 October 1982.

Ruling on Motion for Summary Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 10 days from service of the complaint, unless good cause is shown. The complaint states that, unless an answer is filed within 10 days of service, "all the allegations in the complaint shall be deemed to be admitted to be true and shall be so found by the Board." Further, the undisputed allegations in the Motion for Summary Judgment disclose that the Board agent, by letter dated 21 September 1982, notified the Company that unless an answer was received immediately, a Motion for Summary Judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

Findings of Fact

I. Jurisdiction

The Company, a New York corporation, is engaged in the transportation of freight at its facility in New York, New York, where it annually derives gross revenues in excess of \$500,000 of which more than \$50,000 is derived from services performed for enterprises directly engaged in interstate commerce. Annually the Respondent performs services valued in excess of \$50,000 for firms located outside the State of New York. We find that the Company is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. Alleged Unfair Labor Practices

At all times since on or about 22 July 1981 the Union has been the exclusive representative for collective bargaining of the employees in the appro-

private unit of all full-time and regular part-time production, maintenance, shipping and receiving employees, chauffeurs, helpers, truck drivers, and pushers employed by the Respondent at its facility at 260 West 36th Street, New York, New York. This unit excludes office clerical employees, guards and supervisors as defined in the Act.

Since on or about 21 April 1982 the Respondent has engaged in the following conduct. It failed to attend negotiating sessions with the Union on 29 April, 14 May, 19 May, and 3 August; it did not announce its intention not to attend until shortly before the scheduled meeting in each instance, and it did not explain its failure to attend. On 3 June the Respondent advised the Union that it would no longer bargain with it. From on or about 3 July until late July and since then, the Respondent refused to meet and bargain with the Union. Since on or about 21 April 1982 the Respondent has had no intention of reaching a collective-bargaining agreement with the Union.

On or about 5 August 1982 the Union requested the Respondent to furnish it certain information relevant and necessary to the Union's performance as bargaining representative. This requested information included the names, addresses, and telephone numbers of unit employees. Since then the Respondent has failed and refused to furnish this information.

By this conduct the Respondent has failed and refused to bargain collectively with the representative of its employees. It has also interfered with, restrained, and coerced its employees in the exercise of their rights guaranteed in Section 7 of the Act.

Conclusions of Law

By failing and refusing to bargain collectively with the representative of its employees, and failing and refusing to provide relevant requested information; including the names, addresses, and telephone numbers of unit em-

employees, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

Remedy

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. We will order the Respondent to bargain collectively with the Union; on request to meet at reasonable times and confer in good faith with respect to negotiation of an agreement respecting wages, hours, and other terms and conditions of employment, and, if requested, to execute a written contract incorporating any agreement reached. We shall also order the Respondent to provide the Union with the requested information necessary for collective bargaining; including the names, addresses, and telephone numbers of all unit employees.

ORDER

The National Labor Relations Board orders that the Respondent, J.A.G. Freight Systems, Inc., New York, New York, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing or refusing to bargain collectively with the representative of its employees.

(b) Failing or refusing to provide the Union with relevant requested information; including the names, addresses, and telephone numbers of unit employees.

(c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain collectively with Local 20408, United Warehouse, Industrial and Affiliate Trades Employees Union, respecting wages, hours, and other terms and conditions of employment of employees in the appropriate unit, and, if requested, sign a written contract incorporating any agreement reached.

(b) Provide the Union with the relevant information requested 5 August 1982 including the names, addresses, and telephone numbers of all unit employees.

(c) Post at its facility in New York, New York, copies of the attached notice marked "'Appendix.'"² Copies of the notice, on forms provided by the Regional Director for Region 2, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

² If this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "'POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD'" shall read "'POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD.'"

(d) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

Dated, Washington, D.C.

16 March 1984

Donald L. Dotson, Chairman

Don A. Zimmerman, Member

Robert P. Hunter, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT fail or refuse to bargain collectively with the representatives of our employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL bargain, on request, with Local 20408, United Warehouse, Industrial and Affiliate Trades Employees Union respecting the wages, hours, and other terms and conditions of employment of our employees in the appropriate bargaining unit described below and, if requested, sign a written contract incorporating any agreement reached.

WE WILL provide the Union named above with the relevant information it has requested; including the names, addresses, and telephone numbers of all employees in the bargaining unit. The appropriate bargaining unit is:

All full-time and regular part-time production, maintenance, shipping and receiving employees, chauffeurs, helpers, truck drivers, and pushers employed at 260 West 36th Street, New York, New York. This does not include office clerical employees, guards or supervisors as defined in the Act.

J.A.G. FREIGHT SYSTEMS, INC.

(Employer)

Dated ----- By -----
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, Jacob K. Javits Federal Building, Room 3614 26 Federal Plaza, New York, New York 10278, Telephone 212--264--0360.